

SUBJECT: Creating 20 new state district courts

COMMITTEE: Judicial Affairs — committee substitute recommended

VOTE: 9 ayes — Thompson, Hartnett, Capelo, Deshotel, Garcia, Hinojosa, Shields, Jim Solis, Uresti

0 nays

WITNESSES: For — Harold Kennedy, Fort Bend County Bar

Against — None

BACKGROUND: The state has created no new state district courts in urban counties since 1989, except in El Paso County. In 1997, the 75th Legislature passed SB 20 by Ratliff, which would have created 15 new state district courts, but the governor vetoed the bill.

State district courts are the state's primary trial courts. They exercise original jurisdiction over felony criminal prosecutions, suits for divorce, suits over title to land, election contests, defamation suits, and civil suits with an amount in controversy of at least \$200. District courts hear contested matters involved in probate cases and have general supervisory control over commissioners courts. In addition, district courts have general original jurisdiction over all causes of action for which a remedy or jurisdiction is not provided by law or by the state constitution, and they have power to issue all writs necessary to enforce their jurisdiction.

A single county may be served by one or more district courts whose judges are elected countywide. In multi-county districts, judges are elected at large. One judge serves each court, although the constitution allows the Legislature to establish multi-judge courts. District court judges are elected to four-year terms through partisan elections in even-numbered years.

DIGEST: CSHB 400 would create 20 new state district courts in Texas' largest counties. The bill also would convert two existing multi county judicial districts into single-county districts.

The bill would establish these district courts effective September 1, 1999:

- ! 379th, serving Harris County, with preference to juvenile matters;
- ! 386th, serving Bexar County, with preference to juvenile matters;
- ! 387th, serving Fort Bend County, with preference to family law matters;
- ! 388th, serving El Paso County, with preference to family law matters; and
- ! 389th, serving Hidalgo County, with preference to criminal matters.

The bill would establish these district courts effective October 1, 1999:

- ! 390th, serving Travis County, with a preference to criminal matters; and
- ! 391st, serving Tom Green County, which could accept case referrals from other state district courts in the county.

The bill would authorize the 391st state district court to enter into a system with the 51st, 119th, and 340th district courts in which one judge could substitute for another.

The bill would establish these district courts effective January 1, 2000:

- ! 393rd, serving Denton County, with preference to family law matters;
- ! 395th, serving Williamson County; and
- ! 396th, serving Tarrant County, with preference to criminal matters.

The bill would establish these district courts effective September 1, 2000:

- ! 397th, serving Grimes, Madison, and Waller counties;
- ! 398th, serving Hidalgo County, with preference to family law and criminal matters;
- ! 399th, serving Bexar County, with preference to criminal matters;
- ! 400th, serving Fort Bend County;
- ! 401st, serving Collin County; and
- ! 402nd, serving Wood County.

On September 1, 2000, the local administering judge would have to transfer all cases from Wood County that were pending in the 114th or the 294th district court to the 402nd district court.

Effective October 1, 2000, the bill would establish the 403rd district court in

Travis County, with preference for family law.

The bill would establish these district courts, effective January 1, 2001:

- ! 404th, serving Cameron County;
- ! 405th, serving Galveston County; and
- ! 406th, serving Webb County, with preference to family violence cases and cases under the Family Code and the Health and Safety Code.

The initial vacancy for these courts would be filled by election in 2000.

SUPPORTERS
SAY:

CSHB 400 would help relieve docket overcrowding and would distribute more evenly the population served by the district courts in these areas.

Across Texas, the criminal and civil docket has been increasing. According to the Office of Court Administration, the number of civil cases for district courts grew from 440,404 in 1989 to 473,768 for 1995. The number of pending civil cases grew from 505,092 in 1989 to 554,928 in 1995. The number of criminal cases pending at year-end increased from 129,263 in 1989 to 169,063 in 1995.

Significant numbers of cases are pending in the state's larger counties. Many cases appear in the dockets of these counties, creating pressures to dispose of them as quickly as possible to relieve backlogs.

In counties that would receive new state district courts under CSHB 400, the percentages of cases pending are much higher than the statewide average. More courts for these counties would improve the administration of justice, especially for areas of the law that are seeing the biggest increases. Increases in family law-related and juvenile cases, for example, require specialized judicial attention. With the new courts, more judicial resources would be available for other criminal and civil cases in these larger counties.

At-large elections for district court judges were found not to violate section 2 of the federal Voting Rights Act in *LULAC v. Clements*, 986 F.2d 728 (5th Cir.1993) (en banc), cert. denied 510 U.S. 1071, 114 S. Ct. 878 (1994). This bill is concerned only with the need for more district courts without addressing the issues of judicial selection and single-member districts, which it would be more appropriate to address in other legislation.

The Constitution does not require the governor to make the initial appointment for all new courts. The governor signed legislation in 1995 creating new courts with initial vacancies filled by election and has indicated no concern with this bill.

OPPONENTS
SAY:

Until Texas reforms its system of electing judges, no new district court should be created. A new district court costs the state more than \$100,000 per year to operate, and these new courts would cost a total of \$2.5 million per year, according to the fiscal note. The state should not spend the money to create courts until it solves the problem of judicial selection.

Because of Texas' history of racial discrimination and minority vote dilution, federal law requires Texas to preclear any changes in its election system with the U.S. Justice Department to ensure that the proposed changes do not dilute the ability of minority voters to elect candidates of their choice. If the Justice Department reviews the impact of the creation of new courts on a statewide basis, there is no guarantee that the department will preclear any or all of these new courts.

The three of the 20 new courts would be filled initially by election rather than by the governor. The governor vetoed the 1997 bill creating 15 new district courts because four of the courts would have been filled initially by election rather than by gubernatorial appointment.

NOTES:

The committee substitute added 17 courts to the bill, and new district courts in Harris, Bexar, and Fort Bend counties were renumbered from 405th, 406th, and 407th to the 379th, 386th, and 387th, respectively. The substitute also added court preferences.

In 1997, the 75th Legislature approved SB 20 by Ratliff, which would have created 15 new district courts, four in Bexar County, two in Fort Bend, and one each in Cameron, Galveston, Harris, Nueces, Smith, Tarrant, Tom Green, Travis, and Webb counties. The initial vacancies of three of the Bexar County courts and the Harris County court would have been filled initially by election in 1998 and the rest filled initially by gubernatorial appointment. Gov. Bush vetoed SB 20, saying that it contradicted the Texas Constitution, which he said allows the governor to fill vacancies in newly created courts. The governor also noted in his veto message that since 13 of the 15 new courts would have been created in 1999 anyway, the 1999 Legislature could

create them in a way that conformed with the Constitution.